

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on February 19, 2003 at 3:40 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Bob Story Jr., Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Edward Butcher (R)
Sen. Mike Cooney (D)
Sen. Jim Elliott (D)
Sen. Royal Johnson (R)
Sen. Jeff Mangan (D)
Sen. Don Ryan (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Tari Elam, Committee Secretary
Connie Erickson, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 380, 2/17/2003; SB 411,
2/17/2003
Executive Action: SB 307; SB 90; SB 380; SB 174; SB
299; SB 205

HEARING ON SB 380

Sponsor: SENATOR KEITH BALES

Proponents: John Cadby, President & CEO, Montana Bankers Association
Annie Goodwin, Commissioner, Banking and Financial Institutions Division
Bob Pyfer, Senior Vice President, Montana Credit Union Network
Keith Colbo, Executive Director, Montana Independent Bankers
Lance Melton, Executive Director, Montana School Boards Association (MTSBA)

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 0.2 - 3.5}

SENATOR KEITH BALES, SD 1, Southeastern Montana, brought forward a bill which would allow trustees of a high school or K-12 public school to establish a student financial institution at a high school. SEN. BALES explained the bill allows for the creation of a student run bank to provide practical, hands-on experience. He believes this is a very important experience for young people, because many often leave high school with little or no practical understanding regarding the issue. He stated the bill arose because one of his constituent's attempted to establish a student bank only to realize present law would not allow him to do so. There are protective aspects of the bill in that, while allowing trustees to create a student bank, it holds them responsible for oversight duties and liable in the event of failure. The bill also creates an exception to some of the regulatory measures which govern banking generally; thus, there is no need for independent audits and so forth. The bill also addresses the issue of advertising because the students would not otherwise be able to do so. SEN. BALES expressed appreciation to various members of the banking community for assisting in the writing of this legislation, and noted their expertise was invaluable.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 3.7 - 14.1}

John T. Cadby, President & CEO, Montana Bankers Association, submitted written testimony **EXHIBIT**(eds37a01).

Annie Goodwin, Commissioner, Banking and Financial Institutions Division, expressed her agency's support for **SB 380**. She thinks this legislation will provide an opportunity for financial institutions in the state to teach young people about the importance of good financial decision making. She explained the state of North Dakota has a similar statute, and she has discussed this proposal with the Commissioner of the state. She indicated, at present, North Dakota has three student run banks which have had no adverse experience.

Ms. Goodwin outlined her agency's proposed amendments, noting they are merely housekeeping in nature. She also provided the Committee with a copy of the amendments **EXHIBIT (eds37a02)**.

Bob Pyfer, Senior Vice President, Montana Credit Union Network, expressed his organization's support for the bill. He explained the basics of how credit unions operate, noting consumer education has always been an integral part of their philosophy.

Mr. Pyfer also noted there are other bills presently under consideration which will urge high schools to make consumer finance a part of the regular curriculum. He believes this bill provides an excellent opportunity to teach students and urged the Committee recommend Do Pass.

Keith Colbo, Executive Director, Montana Independent Bankers, conveyed his organization's support for the bill and the proposed amendments.

Lance Melton, Executive Director, MTSBA, conveyed his organization's support of **SB 380**. He explained, though not himself an expert on financial institutions, many of his members believe this is an important opportunity.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 14.5 - 26.1}

SENATOR ROYAL JOHNSON, referring to recent testimony on the current conditions in public schools, asked **Mr. Melton** where emphasis should be placed with regard to this issue. **Mr. Melton** responded his organization supports the measure as a permissive opportunity, not as a mandated addition to the curriculum. He agreed many schools are experiencing difficulties meeting current obligations, but some schools may have the necessary resources available and should therefore have the opportunity to go forward. **SEN. JOHNSON**, noting **Mr. Melton's** response, stated the measure is not confined to eastern Montana. **Mr. Melton** replied in the affirmative, explaining his organization's support arises from the bill's local control aspect. **SEN. JOHNSON** also

expressed concern over the bill's language which holds trustees liable in the event a student bank becomes insolvent. He asked **Mr. Melton** for his perception of the matter. **Mr. Melton** replied there is presently a mechanism in the law which allows districts to pay judgment debts, and explained it is the duty of the district to oversee this type of projects. Accordingly, he believes responsibility for ensuring the soundness of implemented practices has been placed in the appropriate hands. He offered the "extracurricular fund" as an example of the type of oversight necessary. **SEN. JOHNSON**, noting banks and athletic funds are two entirely distinct types of entities, stated he does not see the correlation. **Mr. Melton** explained the extracurricular fund is managed by the school district, with its' funds being deposited in a bank account, thus, the oversight responsibilities are similar.

SENATOR BOB STORY, referring to **SEN. JOHNSON's** questions regarding the school district's being an insurer, asked whether the school board will have any operating management over a student bank. **SEN. BALES** affirmed **SEN. STORY's** understanding, and explained there will be a certain number of choices the board will need to make since they are in a position of responsibility for any activity coordinated through a school. **SEN. STORY** restated his initial question. **SEN. BALES** indicated, as is the case generally, the school district may delegate oversight authority for the project to another entity.

SENATOR JERRY BLACK asked **SEN. BALES** if he envisioned all students using the bank, what would be the bank's purposes, and how would those purposes be put to use. **SEN. BALES** explained the bank will offer, on a much smaller scale, most of the services presently offered by commercial banks. **SEN. BLACK** asked whether the bank will offer statements. **SEN. BALES** responded, although not certain, he believes that would be correct. He thinks initial services will be very limited, expanding as people become more comfortable with the services offered. **SEN. BLACK**, using an example of a school fund-raiser, asked if the coordinating group would be able to use the bank for that type of purpose. **SEN. BALES** stated he believes they would be able to open an account and use the funds accordingly.

SENATOR JEFF MANGAN, referring to **Ms. Goodwin's** testimony regarding discussions with her North Dakota colleague, asked if the person had provided information on the organizational and operational structures for student banks presently in operation. **Ms. Goodwin** replied in the affirmative, indicating student banks provide loans, offer interest earning deposit services, and provide financial statements. The programs have a supervisory teacher and a mentor bank advisor. **SEN. MANGAN**, referring to the

bill's language regarding investments, inquired whether student banks in North Dakota are doing investments, and whether she thinks student banks in Montana will do likewise. **Ms. Goodwin** replied she does believe student banks in Montana will expand their services to the area of investments. **SEN. MANGAN** asked **Ms. Goodwin** if she would provide the Committee with a copy of North Dakota's statute within the next day or two. **Ms. Goodwin** replied in the affirmative.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 26.2 - 26.5}

SEN. BALES expressed his appreciation to the Committee for a good hearing. He also stated he is in complete agreement with amendments proposed by **Ms. Goodwin's** agency. He requested the Committee recommend Do Pass on **SB 380**.

HEARING ON SB 411

Sponsor: **SENATOR BILL GLASER**

Proponents: **NONE**

Opponents: **Lance Melton, MTSBA**
Erik Burke, MEA-MFT

Informational Witnesses: **Steve Meloy, Executive Secretary, Board of Public Education (BPE)**
Jess Anderson, Treasurer, Cascade County

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 27.1 - 31.1}

{Tape: 1; Side: B; Approx. Time Counter: 1.8 - 8.0}

SENATOR BILL GLASER, SD 8, Yellowstone County, brought forward a bill which--in keeping with legislature's intent to provide "a basic system of free quality public elementary and secondary schools"--defines "quality public elementary and secondary schools," and requires the interim committee to determine the meaning of "state's share" in accordance with the Montana Constitution. He explained last fall four people traveled to Missoula to meet with twenty law students. One of those present was a young woman named **Hillary Wandler**. At the meeting **Ms. Wandler** provided the group with a copy of paper written by her which encouraged the legislature to define quality education.

SEN. GLASER indicated this legislation arises from reading **Ms. Wandler's** paper.

SEN. GLASER stated the bill provides a definition for "quality education" which he believes is indicative of what Montana is trying to do when educating children. He noted there are three words in the bill which need revision or elimination--mental, political, and intelligently--because the words are often perceived as loaded words which may or may not convey correct intent. He requested **Ms. Erickson** draft amendments eliminating the terms. **SEN. GLASER** stated it is his intent to define quality education because he perceives the task as very important in nature. He remains concerned the question will be answered by the judicial system, and would prefer the legislature provide an answer.

SEN. GLASER also provided the Committee with a copy of **Ms. Wandler's** paper **EXHIBIT(eds37a03)**.

Opponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 8.2 - 19.5}

Lance Melton, MTSBA, conveyed his organization is in opposition to the bill as written, however is very supportive of the sponsor's intentions. Although he is respectful of the job done by **Ms. Wandler**, he believes she is incorrect on several key points. First, how "quality education" is defined under the constitution. **Mr. Melton** stated this raises separation of powers issues because while it is the right of the judicial branch to interpret the constitution, in certain respects it is also withing the purview of the legislature. However, when providing interpretations, certain judicial precedents are binding. He referred to a case rendered in 1989 in Helena, Montana, which defines what a quality education is not. In accordance with his understanding of present law, **Mr. Melton** provided the Committee with a revised version of **SB 411** inclusive of various amendments **EXHIBIT(eds37a04)**, and offered an explanation for each. He noted the Montana Supreme Court has stated "Montana school accreditation standards are minimum standards upon which quality education must be built." He also referred to a 1992 case in which **Judge Sherlock** stated the Board of Education's authority to establish standards is independent of any authority granted by the legislature. **Mr. Melton** went on to discuss page three of **EXHIBIT 4** wherein is delineated methods for funding education. He explained there is presently a provision in the law which stipulates any mandate must provide a source of funding. **MTSBA** is very supportive of that provision, but believes it has not been adhered to as often as it should. He went on to briefly

discuss the remainder of his proposed amendments. **Mr. Melton** stated this question is of great concern to his members; it is what they work toward every day. He expressed his appreciation to **SEN. GLASER** for taking on a very tough issue but, again, noted he cannot support the measure as written. He requested the Committee either adopt the proposed amendments or consider tabling the bill.

Erik Burke, MEA-MFT, stated his organization joins **Mr. Melton** in opposition to **SB 411** and support of the sponsor's intentions. He stated the issue of quality education is definitely something which needs addressing, and the education community and Board of Public Education are attempting to address the issue at the present time. **Mr. Burke** believes the Board is constitutionally empowered to determine those definitions, and, again, noted they have begun efforts toward that goal. He thinks the bill contains laudable goals, however he does not think a legislative definition which does not contemplate what the Board of Public Education has already determined is appropriate. He believes the standards for accreditation are in most instances more stringent than the present legislation calls for; for example, the standards for reading. **Mr. Burke**, referring to **Mr. Melton's** testimony, agreed the case set precedent for determining that which is the minimum. He believes the education community should continue to work on this issue. **Mr. Burke** also expressed his appreciation to the Committee for their time and consideration.

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 19.9 - 22.5}

Steve Meloy, Executive Secretary, BPE, stated his agency believes this legislation infringes upon **BPE's** authority over accreditation standards. He conveyed his agency's support for a continuing dialogue on the issue and outlined the basic process for implementing rules.

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 22.7 - 30}

{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 10.1}

SENATOR TOM ZOOK stated his perception of the Court's decision on quality is that it relates to money; i.e., the more you spend the better the quality. He asked **Mr. Melton** if he had ever eaten homemade bread. **Mr. Melton** replied in the affirmative. **SEN. ZOOK** inquired whether **Mr. Melton** had eaten commercial bread; he replied in the affirmative. **SEN. ZOOK**, noting commercially baked

bread is more expensive than homemade bread, asked **Mr. Melton** which is of better quality. **Mr. Melton** replied it would depend upon the cook. **SEN. ZOOK**, while agreeing with **Mr. Melton's** response, stated he has never believed there is any comparison between the two. **Mr. Melton** stated he concedes to **SEN. ZOOK's** assertion (by analogy) regarding some schools who are funded at lower levels, and some higher spending schools that may not always do their best in comparison. However, he does believe there is a strong correlation between levels of funding provided and the resulting output. **SEN. ZOOK** asked **Mr. Melton** if he would also concede there are studies which show in fact there is an inverse relationship. **Mr. Melton** stated he is not aware of a single study which indicates an inverse relationship. **SEN. ZOOK** thanked **Mr. Melton** and stated he would provide him with some of the particular information.

SENATOR EDWARD BUTCHER stated he perceives the legislation as providing a broad array of services which an expansive court could demand be delivered. He asked if **Mr. Melton** would agree with his perception. **Mr. Melton** stated his understanding of the intent of the bill and the amendments is not to define a "basic system," but a "basic system of quality elementary and secondary public schools." He believes there is a contradiction in the constitution because it requires there be a "basic" system, but it must be "quality." He stated his proposed amendments to the bill are based on one of three court decisions. The 1989 case (Helena Elementary School District), held that anything the **BPE** adopts in its' standards must be funded as a foundation, but the decision does not fully define quality. Therefore, it was the accreditation standards plus a question mark. In 1992, the **Sherlock** decision stated **BPE** is solely responsible for defining those standards; the legislature may not control that process. The third decision, Kaptein v. Conrad School District (1997), held participation in athletic activities is entitled to mid-level constitutional analysis; i.e., it is a constitutional right. **Mr. Melton** believes these decisions are not prospective, but are indicative of the Court's position on the issue. **SEN. BUTCHER**, conveying his position with regard to recent court decisions, again stated he believes the bill provides the court with an incredible amount of latitude. He believes the definition of "basic" is equivalent to 20-1-101(12)(d); anything beyond are areas injected into the process by someone's choice. He asked if **Mr. Melton** would agree the definition of "basic" should stop with section (12)(d). **Mr. Melton** stated he did not agree because "basic" is not what is required by the constitution, "quality" is. He stated he looks to court decisions for guidance and then tries to make his best guess with regard to the particular issue.

SEN. STORY, referring to discussions which occurred during the Constitutional Convention, inquired whether any mention was made regarding funding. **Mr. Melton** replied in the affirmative, noting much of the discussion is exactly the same as today. **SEN. STORY** asked **Mr. Melton** if his amendments are partially direct quotes from various sources. **Mr. Melton** replied in the affirmative with the exception of subsection D, explaining from where each section was taken. **SEN. STORY**, noting **Mr. Melton's** position and understanding, inquired whether his organization has any interest in statutorily defining the term. **Mr. Melton** replied he would prefer a legislative definition be provided; but, the definition should arise from collaborative efforts. He also stated he realizes the legislature has authority to do so without input, but would request any mandates be funded. **SEN. STORY**, referring to information gathered regarding this issue, stated regardless of what the legislature decides, the court will reach a conclusion with or without legislative determination. **Mr. Melton**, referring to his earlier testimony, stated he agrees the court will allow statutory definitions to be made, but will also assert its' right to interpret the law as written. **SEN. STORY** then inquired about **Mr. Melton's** position on the bill's provision for an interim committee. **Mr. Melton** replied he supports the requirement. He believes the question of "state's share" is very worthy of exploration.

SEN. MANGAN, referring to testimony provided and the proposed amendments, inquired whether **SEN. GLASER** thought it might be a good idea to include a broader understanding of the issue. **SEN. GLASER** responded the bill is a vehicle to address a pressing issue. He noted he has watched this same battle for eighteen years; and, until such time as this body can collectively decide what is going to be provided for children, there will be an ongoing battle. He stated he is open to any suggestions brought forward which this Committee can collectively agree upon. **SEN. MANGAN**, noting his appreciation for **SEN. GLASER's** position, asked whether the interim study process may perhaps be a better environment in which to achieve the stated goals of the bill. **SEN. GLASER** stated he is certain an interim committee would be qualified, however, he believes we should provide an answer before a final court decision is rendered. He believes the issue can be resolved by this Committee.

Closing by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 10.2 - 12.8}

SEN. GLASER stated his responses to **SEN. MANGAN's** questions fairly covered his closing thoughts on the issue. He did, however, wish to convey his gratification to **Mr. Meloy** for speaking on the issue. He believes **BPE** is truly desirous of finding a solution to the problem, and he thinks the Board should work with the legislature to accomplish that goal. If the two parties are not able to work together, the court will need to decide the issue. He believes this will result in no continuity for the children of Montana. And, in the end, we are talking about educating kids. To his knowledge, year after year, there has been no progress made on this issue. Montana presently has approximately 150,000 students, 12,000 - 15,000 of whom exit each year through the high school system possibly without having had the educational opportunity provided they should have because the grown people of the state cannot get along. He would appreciate a dialogue between representatives of the Board and the Committee during the next few days in which they will decide to agree or not. **SEN. GLASER** believes this issue needs to be put behind us.

EXECUTIVE ACTION ON SB 307

{Tape: 2; Side: A; Approx. Time Counter: 15.2 - 30.4}

Motion: **SEN. MANGAN** moved that **SB 307 DO PASS**.

Discussion:

SENATOR DON RYAN requested permission for the Cascade County Treasurer to speak to the Committee regarding concerns he has with the bill. **CHAIRMAN GLASER**, without objection, granted permission.

SENATOR ROYAL JOHNSON asked **Jess Anderson, Cascade County Treasurer**, whether **Mr. Anderson's** agency has a binding contract with the school district for five years. **Mr. Anderson** replied in the affirmative. **SEN. JOHNSON** asked whether this bill will allow the district to terminate this agreement. **Mr. Anderson** stated the contract was signed in 2001, but if it would help the school district he would be willing to do so.

SEN. RYAN asked **Mr. Anderson** to explain the nature of the contract between his agency and the school district. **Mr. Anderson** stated, in accordance with **SB 260** of last session, the agreement allowed the district to move funds to Big Sky Investments in order to realize higher returns.

SEN. JOHNSON inquired whether **Mr. Anderson** is an attorney. **Mr. Anderson** replied in the negative. **SEN. JOHNSON** asked if he was involved in contract negotiations. **Mr. Anderson** replied the agreement entered into was between the Treasurer's Association and **MTSBA**. **SEN. JOHNSON** indicated current law defines "binding contract," and asked **Mr. Anderson** to explain his understanding of the term's meaning. **Mr. Anderson** replied **SEN. JOHNSON's** assertion and reference were correct.

SEN. MANGAN, referring to **SEN. JOHNSON's** question, asked whether Cascade County has a binding contract with School District #2 as directed by the bill of last session. **Mr. Anderson** replied in the affirmative.

SEN. JOHNSON inquired whether **Mr. Anderson** was familiar with the proposed amendments. **Mr. Anderson** indicated he had just been provided with a copy.

SEN. RYAN asked **Mr. Anderson** for his thoughts on the problems being faced by Great Falls with the system as it presently stands. **Mr. Anderson** responded the initial projections by Big Sky Investments were higher than actually realized; some of the difference being attributable to market conditions. Because the Treasurer's office has a somewhat different investment base, they have been able to realize a slightly higher return than Big Sky for the past year. He believes part of the reason is due to the stability of five year contracts. He would prefer his office not have to go back and forth, reinventing the wheel each time.

SEN. MANGAN asked if there is at present a contract with the district. **Mr. Anderson** replied in the affirmative. **SEN. MANGAN--**noting the school district has requested the five year requirement be amended out and that **Ms. Carpenter** of his office [see Committee Minutes for February 17, 2003, for testimony provided by **Ms. Carpenter**] indicated this is not desirable--asked if **Mr. Anderson** had a suggestion regarding the optimal length of time for a contract with their office. **Mr. Anderson** replied he would prefer the five year term remain, however, it may be possible to amend a contract to include "upon mutual agreement of both parties" language.

SEN. JOHNSON asked **Mr. Anderson** to clarify his response to **SEN. MANGAN's** question. **Mr. Anderson** explained he would like it to be clearly understood his office is not amenable to yearly opting in and out contracts. **SEN. JOHNSON** asked whether he is willing to amend the present contract. **Mr. Anderson** replied in the affirmative, but again stated he is unwilling to go with a yearly contract.

SEN. RYAN asked **Mr. Melton**, as a representative of **MTSBA** in the negotiations process, to explain what the original problem faced by Great Falls was and what this legislation does to address that problem. **Mr. Melton** explained the Great Falls district is presently experiencing inefficiency because there is an intermediate stopping point in both directions. They would like to have money in an invested status, earning whatever interest possible, but they are not realizing the full potential. **Mr. Melton** once again expressed his organization's willingness to negotiate the term length.

SEN. RYAN asked **Mr. Anderson** about the difficulties that have arisen from the intermediate stopping point requirement. **Mr. Anderson** replied it was one aspect of the process which slowed down investments for the school district.

Motion: **SEN. STORY** moved **SB 030702.ACE**.

Discussion:

SEN. STORY explained the amendment removes the five year requirement, and instead relies upon whatever agreement is reached between the parties.

SEN. MANGAN conveyed his support for the amendment as it is indicative of the dialogue between the various interested parties.

Motion/Vote: **SEN. STORY** moved that **SB 030702.ACE DO PASS**. Motion carried unanimously; with **BUTCHER, COONEY, ELLIOTT, and ZOOK**, voting **AYE**, via proxy.

Motion/Vote: **SEN. RYAN** moved that **SB 030701.ACE DO PASS**. Motion carried unanimously; with **BUTCHER, COONEY, ELLIOTT, and ZOOK**, voting **AYE**, via proxy.

Motion/Vote: **SEN. MANGAN** moved that **SB 307 DO PASS AS AMENDED**. Motion carried unanimously; with **BUTCHER, COONEY, ELLIOTT, and ZOOK**, voting **AYE**, via proxy.

[PLEASE NOTE: SUBSEQUENT TO THE MEETING SB030701.ace AND SB030702.ace WERE COMBINED INTO A SINGLE AMENDMENT ENTITLED SB030702.ace.]

EXECUTIVE ACTION ON SB 174

{Tape: 2; Side: A; Approx. Time Counter: 30.5 - 31.5}

{Tape: 2; Side: B; Approx. Time Counter: 2.1 - 3.5}

CHAIRMAN GLASER conveyed information to the Committee from **SENATOR VICKY COCCHIARELLA** that she has been unable to secure funding for **SB 174** and has requested the bill be indefinitely postponed.

Motion/Vote: **SEN. JOHNSON** moved that **SB 174 BE INDEFINITELY POSTPONED**. Motion carried 8-2 with **ELLIOTT**, via proxy, and **MANGAN** voting NO; **BUTCHER**, **COONEY**, and **ZOOK**, voting YES, via proxy.

EXECUTIVE ACTION ON SB 90

{Tape: 2; Side: B; Approx. Time Counter: 4 - 11.1}

SEN. STORY explained the bill was forwarded from the subcommittee without amendments. He explained the CPI indexing feature is contained within **SB 303** as well, and noted **SB 303** provides for averaging and has a two year hold-over feature.

CHAIRMAN GLASER inquired whether the subcommittee had a recommendation regarding the bill. **SEN. STORY** replied in the negative, stating the subcommittee concluded since another bill covers aspects in addition to indexing, the full committee should decide.

Motion: **SEN. STORY** moved that **SB 90 BE INDEFINITELY POSTPONED**.

Discussion:

SEN. STORY noted, while the concept is good, it does cost a substantial amount of money. He stated he would prefer changes be made through **SB 303**.

SEN. RYAN conveyed his opposition to the motion, and stated he believes the CPI inflation indexing issue should be brought before the entire body for discussion. He also stated **SB 90** has a substantially smaller fiscal impact than **SB 303**. He expressed concern with the possibility of **SB 303** being rejected on the floor due to its fiscal impact, thus eliminating discussion on the indexing issue.

CHAIRMAN GLASER stated he believes the legislative body would like to do as much as possible during this session with regard to the school funding issue. If the Senate sends titles which are too narrow to the House, and the House sends titles that are too

narrow to the Senate, he cannot see how we are doing everything possible for kids. He believes a title must be broad enough--contingent upon funding being available--to address the various needs of children. Averaging alone addresses a selective area in the state more than anywhere else; CPI alone probably does not address the issue fully either.

SEN. STORY indicated **SB 90** takes effect during the next biennium. The methodology contained in **SB 303** is a fixed percentage increase in the current biennium, with the CPI continuing indefinitely. He also noted **SB 303** has been amended to have a 2/1 increase during the next biennium. **SB 90** provides for a 1.4% indexing in 2004, and 2.8% in 2005. The methodologies are relatively the same.

Vote: Motion to Indefinitely Postpone SB 90 carried 6-4 with **COONEY**, via proxy, **ELLIOTT**, via proxy, **MANGAN**, and **RYAN** voting NO; **BUTCHER**, via proxy, and **ZOOK**, via proxy, voting AYE.

EXECUTIVE ACTION ON SB 380

{Tape: 2; Side: B; Approx. Time Counter: 12.4 - 13.7}

Motion: **SEN. MANGAN** moved that **SB 380 DO PASS**.

Discussion:

Connie Erickson stated the amendments offered by **Ms. Goodwin** appear to be technical in nature.

Motion/Vote: **SEN. MANGAN** moved that **SB 038001.ACE**, a conceptual amendment based on written submission and oral testimony provided, **DO PASS**. Motion carried unanimously; **SENS. BUTCHER**, **COONEY**, **ELLIOTT**, and **ZOOK** voting AYE via proxy.

Motion/Vote: **SEN. MANGAN** moved that **SB 380 DO PASS AS AMENDED**. Motion carried unanimously, with **SENS. BUTCHER**, **COONEY**, **ELLIOTT**, and **ZOOK** voting AYE via proxy.

EXECUTIVE ACTION ON SB 299

{Tape: 2; Side: B; Approx. Time Counter: 14.3 - 28.1}

Ms. Erickson stated there were amendments to the bill.

Motion: **SEN. STORY** moved that **SB 299 DO PASS**.

Discussion:

SEN. MANGAN relayed his own knowledge regarding Montana's problem with diploma mills. He would like to know whether the Department of Administration has rules in place to monitor this type of institution, and how they will coordinate efforts with the Board of Regents. He gave a rather far reaching example and asked whether under the auspices of this bill it would be necessary to approve the institution.

Ms. Erickson stated the Board of Regents proposed a bill targeted specifically toward the diploma mill issue; it arose primarily from the problems associated with May Technical College. She stated she did work with the Regents in an attempt to write the bill, however, their attorney felt current law was sufficient. She briefly discussed subsequent steps taken to bring about the amendments requested by **SENATOR FRED THOMAS**.

SEN. JOHNSON asked **Mr. Erickson** to clarify her statement regarding requests from the Board of Regents. **Ms. Erickson** explained the Regents placed a request for changes to be made to 20-25-107 MCA, but then withdrew the request. **SEN. JOHNSON** inquired how the Regents followed up with the request to **Ms. Erickson**. **Ms. Erickson** stated she drafted some language for them and forwarded the draft to **Arlene Hannawalt**. She then met with **Ms. Hannawalt** and made additional changes based upon state law elsewhere. Upon review, **Ms. Hannawalt** contacted **Ms. Erickson** stating the attorney for the Office of Higher Education had decided the changes were not necessary.

Substitute Motion/Vote: **SEN. JOHNSON** made a substitute motion that **SB 299 BE INDEFINITELY POSTPONED**.

Discussion:

SEN. STORY said the bill seemed to allow regulation of a religious based school, and indicated his uncertainty about whether such regulation would be constitutionally permissible. He also sees the bill's necessary result--i.e., Montana approving schools without any form of oversight--to be truly problematic.

SEN. BLACK stated Montana is in a difficult position because an individual can go to the internet and obtain this type of degree. This particular institution would like to compete with those already in existence. He does see the need for some type of oversight, and the Board of Regents should have control over which institutions are accredited in the state. He believes this is a global problem.

Ms. Erickson, as a point of clarification, stated the bill does not regulate a religious institution, it exempts the institution from regulation.

SEN. MANGAN stated, regardless of the content of the proposed amendment, there is a significant hole in the legislation. He stated, for every one legitimate party, such as the person who testified on behalf of this bill, there are two thousand charlatans who will attempt utilize the law to operate unethical or to sue the state because they did not receive an exemption. He supports **SEN. JOHNSON's** motion.

Substitute motion to indefinitely postpone SB 299 carried 8-2 with BUTCHER, via proxy, and GLASER voting no.

EXECUTIVE ACTION ON SB 205

{Tape: 2; Side: B; Approx. Time Counter: 30.2 - 30.5}

{Tape: 3; Side: A; Approx. Time Counter: 0.2 - 15}

Motion: **SEN. STORY** moved that **SB 205 DO PASS.**

Discussion:

SEN. STORY explained the bill's present form will not provide relief to the individual who testified during the hearing. However, it is his understanding a student may appeal a decision with a 50/50 chance of getting relief.

SEN. MANGAN does not think there is a provision for an appeal to the specific rule the Committee read.

SEN. STORY explained there is another part of the rules which will allow for an appeal.

SEN. MANGAN inquired whether the bill could be amended to say August 31, rather than August 1. **Mr. Erickson** replied the August 1 date is within the rules of organization.

SEN. MANGAN stated he understood all points put forward by the organization in opposition. However, he perceived their testimony as ill-prepared; offensive in nature, both oral and written; and, troublesome because they provided the Committee with incorrect information. He stated he supports the bill and will be writing a letter to the association requesting they change their rules.

SEN. STORY, stating he too was offended by the attitude of the organization, noted they did attempt to address the specifics of the appeal. He also stated he thought they had indicated there is another appeals process.

SEN. MANGAN is assured if the bill passes there will be some response on the part of the organization.

CHAIRMAN GLASER noted he continues to be troubled by the fact the organization is subject to Article Two of the Montana Code Annotated, and they have yet to address the absence of public input to their processes.

SEN. JOHNSON stated he supports this bill, not because of the behavior of the organization, but because it is good for the kids of the state.

Vote: Motion to DO PASS carried 8-0, with BUTCHER and ZOOK, voting YES via proxy; and, COONEY and ELLIOTT excused.

ADJOURNMENT

Adjournment: 6:00 P.M.

SEN. BILL GLASER, Chairman

TARI ELAM, Secretary

BG/TE

EXHIBIT (eds37aad)